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laws. All investment tax credits allowed under Federal tax law must be reflected in the computations. The petitioner must use the method of depreciation which results in the greatest present value of the cash flow due to the tax and depreciation effect. The marginal income tax rate (t_i) is the firm's anticipated marginal Federal income tax rate in year i . The relevant investment tax credits, depreciation methodology, and marginal Federal income tax rates for a specific exemption petition will be those prescribed by Federal law in effect (or those tax parameters which are known with certainty will be in effect) at the time a decision is rendered. (However, if an investment tax credit expires in a certain year under the law which is in effect at the time the petition is submitted, the petitioner must assume that it will in fact expire in that year.)

(7) If powerplants are being compared, the design capacities or the maximum sustained energy per unit of time that could be produced must be the same. If installations are being compared, the maximum sustained energy per unit of time that could be produced must be the same.

(8) All estimated cash outlays must be computed in accordance with generally accepted accounting principles consistently applied.

(9) The scope of the estimates of relevant costs (as discussed above) of units being compared must be the same.

(10) All allowances for uncertainty and risk in the cost estimates must be explicit.

(11) All cash outlays must be net of any government subsidies or grants.

(e) *Evidence in support of the cost calculation.* Petitioners for an exemption which requires the use of the cost calculation shall certify that the cost of using alternate fuel substantially exceeds the cost of using oil as primary energy source as calculated in this section. A brief summary of the petitioner's supporting calculations and estimates shall be submitted with the certification. The summary should include the following:

(1) Cash outlays, Investment tax credits, depreciation methodologies, and anticipated salvage for capital in-

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vestments including a description of all major construction and equipment;

(2) Annual cash outlays for operations and maintenance expenses including the formulas used to compute them; and

(3) Annual cash outlays for delivered fuel expenses including the formulas used to compute them.

[46 FR 59903, Dec. 7, 1981; 46 FR 63033, Dec. 30, 1981; 47 FR 15314, Apr. 9, 1982; 54 FR 52893, Dec. 22, 1989]

§ 503.7 State approval—general requirement for new powerplants.

(a) Where approvals by the appropriate State regulatory authority are required prior to the construction or use of a new powerplant, a petition for an exemption for consideration by OFE may be submitted to OFE prior to obtaining such approvals from the State regulatory authority.

(b) An exemption granted for a powerplant shall not become effective until an adequate demonstration has been made to OFE that all applicable approvals required by the State regulatory authorities have been obtained.

§ 503.8 No alternate power supply—general requirement for certain exemptions for new powerplants.

(a) *Application.* To qualify for an exemption, except in the case of an exemption for cogeneration units, section 213(c) of the Act requires a demonstration that, despite reasonable good faith efforts, there is no alternative supply of electric power available within a reasonable distance at a reasonable cost without impairing short-run or long-run reliability of service. If a petitioner is unable to demonstrate that there is no alternate supply during the first year of operation, OFE will conclude that the absence of the proposed powerplant will not impair short-term reliability of service, and as a result will not grant the exemption. Such action would not impair long-term reliability of service, since a petition may be submitted for a powerplant that would begin operation in a subsequent year.

(b) *Criteria.* To meet the demonstration required under paragraph (a) of this section, a petitioner must certify that:

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(1) A diligent effort has been made to purchase firm power for the first year of operation to cover all or part of the projected shortfall at a cost that is less than ten (10) percent above the annualized cost of generating power from the proposed plant (including the capital, operation and maintenance expenses, and fuel prices); and

(2)(i) Despite these efforts, the reserve margin in the petitioner's electric region, normal dispatch area, or service area, in the absence of the proposed plant, would fall below twenty (20) percent during the first year of proposed operation; or

(ii) Despite these efforts, the reserve margin will be greater than twenty (20) percent but reliability of service would be impaired. In such case, the certification must be related to factors not included in the calculation of reserve margin, such as transmission constraints.

(c) *Evidence.* The petition must include the following evidence in order to make the demonstration required by this section:

(1) Duly executed certification required under paragraph (b) of this section; and

(2) Exhibits containing the basis for the certification submitted under this section (including those factual and analytical materials deemed by the petitioner to be sufficient to support its certification to this general requirement).

(d) *FERC consultation.* OFE will forward a copy of any petition for which a showing is required under this section to FERC promptly after it is filed with OFE, and OFE will consult with FERC before making the no alternate supply of power finding.

[46 FR 59903, Dec. 7, 1981, as amended at 47 FR 15314, Apr. 9, 1982; 54 FR 52894, Dec. 22, 1989]

§ 503.9 Use of mixtures—general requirement for certain permanent exemptions.

(a) *Criteria.* To qualify for a permanent exemption, except in the case of an exemption for fuel mixtures, section 213(a)(1) of the Act requires a demonstration that the use of a mixture of natural gas and petroleum and an alternate fuel for which an exemption

under 10 CFR 503.38 (Fuel mixtures) would be available, would not be economically or technically feasible.

(b) *Evidence.* The petition must include the following evidence in order to make the demonstration required by this section:

(1) Duly executed certifications to the criteria set forth in paragraph (a) of this section; and

(2) Exhibits containing the basis for the certifications submitted under this section (including those factual and analytical materials deemed by the petitioner to be sufficient to support its certifications to this general requirement.)

NOTE: In meeting this general requirement, OFE will require a petitioner to examine only mixtures of oil and coal and natural gas and coal, or, where petitioner wishes to examine an additional or substitute mixture, such other alternate fuels as OFE and the petitioner agree are reasonable to petitioner's circumstances.

[46 FR 59903, Dec. 7, 1981, as amended at 54 FR 52894, Dec. 22, 1989]

§ 503.10 Use of fluidized bed combustion not feasible—general requirement for permanent exemptions.

(a) *OFE finding.* Except in the case of an exemption for fuel mixtures, OFE may deny permanent exemptions authorized under section 212 of the Act if OFE finds on a site-specific or generic basis that use of a method of fluidized bed combustion of an alternate fuel is economically and technically feasible.

(b) *Demonstration.* If OFE has made such a finding, OFE will deny a petitioner's request for exemption unless the petitioner demonstrated that the use of a method of fluidized bed combustion is not economically or technically feasible. The petition or any supplement thereto required by OFE must include the following evidence:

(1) If use of a method of fluidized bed combustion were to be required, evidence that the petitioner would be eligible for a permanent exemption for lack of alternate fuel supply, site limitations, environmental requirements, lack of adequate capital, or State or local requirements; or